Executive Summary – Enforcement Matter – Case No. 41596 ABF PACKING, INC. RN106006125 Docket No. 2011-0691-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

ABF Packing, located at 8758 South U.S. Highway 377, Dublin, Erath County

Type of Operation:

Meat processing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainants have expressed an interest in this matter

but do not wish to speak at Agenda.

Texas Register Publication Date: February 1, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,550

Amount Deferred for Expedited Settlement: \$3,110 **Amount Deferred for Financial Inability to Pay:** \$0

Total Paid to General Revenue: \$12,440

Total Due to General Revenue: \$0

Payment Plan: N/A **SEP Conditional Offset:** \$0 Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41596 ABF PACKING, INC. RN106006125 Docket No. 2011-0691-WQ-E

Investigation Information

Complaint Date(s): February 15, 2011, February 24, 2011, March 1, 2011 and March 2, 2011

Complaint Information: The complainants allege that Respondent is causing an

odor when they irrigate their property.

Date(s) of Investigation: March 9, 2011, June 15, 2011, and July 9, 2011

Date(s) of NOE(s): April 15, 2011 and September 23, 2011

Violation Information

- 1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, water used to wash out the enclosed trucks was being diverted from the onsite pond and was allowed to flow into a bar ditch located along U.S. Highway 377 [Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 321.57].
- 2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, on January 27, 2010, investigators documented the over application of and pooling of wastewater. In addition, the runoff of irrigated wastewater discharged into a fresh water pond adjacent to the Facility [Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 321.57].
- 3. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, wastewater from the retention control structure ("RCS") was being discharged onto the adjoining property from a stationary reel gun [Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 321.57].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

By May 3, 2011, Respondent removed truck wash water from the bar ditch and constructed control berms throughout the Facility to direct any flow/runoff to the RCS.

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, update operational procedures and conduct employee training to ensure irrigation practices are done in a manner that does not result in the over application of and pooling of wastewater causing unauthorized discharges;
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.;
- c. Within 60 days, complete an evaluation of the effectiveness of the Facility and its operations to ensure that the Facility can maintain compliance with 30 TEX. ADMIN. CODE ch. 321 Subchapter C, Meat Processing, relating to unauthorized discharges;

Executive Summary – Enforcement Matter – Case No. 41596 ABF PACKING, INC. RN106006125 Docket No. 2011-0691-WQ-E

d. Within 90 days:

- i. Submit written certification that compliance with 30 Tex. Admin. Code ch. 321 Subchapter C, Meat Processing, relating to unauthorized discharges can be maintained; or
- ii. If compliance with 30 TEX. ADMIN. CODE ch. 321 Subchapter C, Meat Processing can not be maintained, then submit an administratively complete permit application.
- e. If a permit application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application with 30 days after the date of such requests or by any other deadline specified in writing; and
- f. If a permit application is submitted, within 330 days, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEO Enforcement Coordinator: Heather Brister, Enforcement Division,

Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division,

MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: D. L. Funderburgh, President, ABF PACKING, INC., 8758 South U.S.

Highway 377, Dublin, Texas 76446 **Respondent's Attorney:** N/A

Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 Assigned 20-Jun-2011 25-Jul-2011 Screening 12-Jul-2011 **EPA Due** PCW RESPONDENT/FACILITY INFORMATION Respondent ABF PACKING, INC. Reg. Ent. Ref. No. RN106006125 Facility/Site Region 4-Dallas/Fort Worth Major/Minor Source Minor **CASE INFORMATION** Enf./Case ID No. 41596 No. of Violations 1 Docket No. 2011-0691-WQ-E Media Program(s) Water Quality Order Type 1660 Government/Non-Profit No Multi-Media Enf. Coordinator Heather Brister EC's Team Enforcement Team : Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$2,500 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** 7.0% Enhancement Subtotals 2, 3, & 7 \$175 Enhancement for one NOV with same/similar violations and one NOV Notes with dissimilar violations. \$0 0.0% Enhancement Subtotal 4 Culpability No The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 Subtotal 6 \$0 **Economic Benefit** 0.0% Enhancement* Total EB Amounts *Capped at the Total EB \$ Amount Approx. Cost of Compliance **SUM OF SUBTOTALS 1-7** \$2,675 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% \$0 Adjustment Reduces or enhances the Final Subtotal by the indicated percentage. Notes Final Penalty Amount \$2,675 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$2,675 -\$535 20.0% Reduction Adjustment Reduces the Final Assessed Penalty by the indicted percentage.

Deferral offered for expedited settlement.

\$2,140

Notes

PAYABLE PENALTY

PCW

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Respondent ABF PACKING, INC.

Case ID No. 41596

Reg. Ent. Reference No. RN106006125 Media [Statute] Water Quality Enf. Coordinator Heather Brister

	Component	ry Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust
	NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
		Other written NOVs	1	2%
		Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	U	0%
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
	Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
	Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
	Emissions	Chronic excessive emissions events (number of events)	0	0%
	Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
		Ple	ase Enter Yes or No	······································
		Environmental management systems in place for one year or more	No	0%
	Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	00.	Participation in a voluntary pollution reduction program	⁵ No	0%
		Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
ер	eat Violator (Adjustment Per	i pote. Vijela a	
	No	Adjustment Per	centage (Subt	total 3)
on		ry Person Classification (Subtotal 7)		
	Average Pe	rformer Adjustment Per	centage (Subt	total 7)
on	npliance Histo	ry Summary		
	Compliance History	Enhancement for one NOV with same/similar violations and one NOV with dissim	ilar violations	

Re Ca	se ID No.	ABF PACKING, INC. 41596	Dock	et No. 2011-0691-WQ-E		PCW on 2 (September 2002) ision October 30, 2008
Enf. Co	[Statute]	Water Quality Heather Brister			7	
F	Rule Cite(s)	Tex. Water Cod	de § 26.121(a)(1) and	d 30 Tex. Admin. Code § 321.	.57	d grant of the control of the contro
Violation	Description	water in the state, as 2011. Specifically, application of and p	documented during a on January 27, 2010, pooling of wastewater	rge of wastewater into or adj a record review conducted on , investigators documented th . In addition, the runoff of in ater pond adjacent to the Fac	June 15, ne over rigated	
				Bas	e Penalty	\$10,000
>> Environment	al, Proper	ty and Human He Har				en interpretation of the control of
OR	Release Actual Potential	Major Mode x	- In the second	Percent 25%		** ** *** ****************************
>>Programmation						The second secon
	Falsification	Major Mode	rate Minor	Percent 0%		THE TYPE
Matrix Notes	Human heal	th or the environment I	nas been exposed to s result of the violation	significant amounts of polluta 1.	nts as a	
				Adjustment	\$7,500	Open money is a management
es de proprieta de la companya de la						\$2,500
Violation Events						
No. Alladora (Primingle Assimum)	Number of V	violation Events 1		Number of violation	days	
	mark only one with an x	dally weekly monthly quarterly semiannual annual single event		Violation Base	e Penalty	\$2,500
0	ne monthly e			date (June 15, 2011) to the	screening	
			date (July 12, 2011).			and the second distribution of the second distri
Good Faith Effort	ts to Comp	oly Before	Reduction NOV NOV to EDPRP/Set	tlement Offer		\$0
		Extraordinary Ordinary N/A x	(mark with x)			
National Research Control of the Con				et the good faith criteria for lation.		
Total Andrews				Violation	Subtotal	\$2,500
Economic Benefit	t (EB) for	this violation		Statutory Limit	Test	
The state of the s	Estimate	d EB Amount	\$39	Violation Final Pena	ity Total	\$2,675
		This	violation Final Ass	essed Penalty (adjusted fo	or limits)	\$2,675

Violation No.	. T					Percent Interest	Years of Depreciation
				gswit A.		5.0	Depreciation 1
1 Aug. 1	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or (
Delayed Costs		August and a straight					
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	27-Jan-2010	28-Feb-2013	3.09	\$39	n/a	\$39
							40
Remediation/Disposal				0.00	\$0	n/a	\$0
Remediation/Disposal Permit Costs				0.00	\$0	n/a	\$0
Permit Costs Other (as needed)	11		•	0.00 0.00 dures a	\$0 \$0 nd conduct emplo	n/a n/a yee training to ensu	\$0 \$0 re irrigation
Permit Costs Other (as needed) Notes for DELAYED costs	practices are v	done in a manne iolation was first d	r that does not ocumented. Fir	0.00 0.00 dures a create nal date	\$0 \$0 nd conduct emplo unauthorized disci e it is the anticipat	n/a n/a	\$0 \$0 re irrigation ed is the date ce.
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Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs	practices are v	done in a manne iolation was first d	r that does not ocumented. Fir	0.00 0.00 dures a create nal date	\$0 \$0 nd conduct emplo unauthorized disci e it is the anticipat	n/a n/a yee training to ensu narges. Date requir ed date of compliand for one-time avoid	\$0 \$0 re irrigation ed is the date ce. led costs)
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	practices are v	done in a manne iolation was first d	r that does not ocumented. Fir	0.00 0.00 dures a create nal date enterir 0.00	\$0 \$0 and conduct emplo- unauthorized disci it is the anticipat ig item (except in the second in the	n/a n/a n/a yee training to ensu narges. Date requir ed date of compliant for one-time avoid	\$0 \$0 re irrigation ed is the date ce. led costs) \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	practices are v	done in a manne iolation was first d	r that does not ocumented. Fir	0.00 dures a create hal date enterir 0.00 0.00	\$0 \$0 and conduct emploi unauthorized disci e it is the anticipat ig item (except i \$0 \$0	n/a n/a n/a yee training to ensu narges. Date required date of compliant for one-time avoid \$0 \$0	\$0 \$0 re irrigation ed is the date ce. ed costs \$0 \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel	practices are v	done in a manne iolation was first d	r that does not ocumented. Fir	0.00 dures a create hal date enterir 0.00 0.00 0.00	\$0 \$0 and conduct emplo- unauthorized discle it is the anticipat ig item (except i \$0 \$0 \$0	n/a n/a n/a yee training to ensu harges. Date required date of compliant for one-time avoid \$0 \$0 \$0 \$0	\$0 \$0 re irrigation ed is the date ce. led costs) \$0 \$0
Permit Costs Other (as needed) Notes for DELAYED costs Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment	practices are v	done in a manne iolation was first d	r that does not ocumented. Fir	0.00 dures a create hal date enterin 0.00 0.00 0.00 0.00	\$0 \$0 and conduct emplo unauthorized disci e it is the anticipat ig item (except in \$0 \$0 \$0 \$0 \$0	n/a n/a n/a yee training to ensure training trainin	\$0 \$0 re irrigation ed is the date ce. led costs) \$0 \$0 \$0

Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 Assigned 26-Sep-2011 Screening 3-Oct-2011 **EPA Due** PCW 3-Oct-2011 RESPONDENT/FACILITY INFORMATION Respondent ABF PACKING, INC. Reg. Ent. Ref. No. RN106006125 Major/Minor Source Minor Facility/Site Region 4-Stephenville **CASE INFORMATION** Enf./Case ID No. 41596 No. of Violations 1 Docket No. 2011-0691-WQ-E Media Program(s) Water Quality Order Type 1660 Government/Non-Profit No Multi-Media Enf. Coordinator Heather Brister EC's Team Enforcement Team 1 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$7,500 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. **Compliance History** 7.0% Enhancement Subtotals 2, 3, & 7 \$525 Enhancement for one NOV with same/similar violations and one NOV Notes with dissimilar violations. \$0 No Subtotal 4 Culpability 0.0% Enhancement The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 0.0% Enhancement* Subtotal 6 \$0 **Economic Benefit** Total EB Amounts *Capped at the Total EB \$ Amount Approx. Cost of Compliance SUM OF SUBTOTALS 1-7 Final Subtotal \$8,025 \$0 OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment Reduces or enhances the Final Subtotal by the indicated percentage. Notes

STATUTORY LIMIT ADJUSTMENT

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g

DEFERRAL

Final Penalty Amount

Final Assessed Penalty

Adjustment

Reduction

20.0%

Deferral offered for expedited settlement.

\$8,025

\$8,025

-\$1,605

\$6,420

Screening Date 3-Oct-2011

Respondent ABF PACKING, INC.

Case ID No. 41596

Reg. Ent. Reference No. RN106006125

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Media [Statute] Water Quality Enf. Coordinator Heather Brister

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Compliance History Worksheet

mponent	ry Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.			
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%			
	Other written NOVs	1	2%			
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	U	0%			
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	_	0%			
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)		0%			
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%			
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%			
Emissions	Chronic excessive emissions events (number of events)	0	0%			
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%			
Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)		0%			
	Pic	ease Enter Yes or No				
	Environmental management systems in place for one year or more	No	0%			
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%			
	Participation in a voluntary pollution reduction program	No	0%			
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%			
	Adjustment Per	centage (Sub	total 2)			
at Violator (Subtotal 3)					
No	Adjustment Per	Adjustment Percentage (Subtotal 3)				
iliance Histo	ry Person Classification (Subtotal 7)					
Average Pe	rformer Adjustment Per	centage (Subt	otal 7)			
oliance Histo	ry Summary					
Compliance History Notes	Enhancement for one NOV with same/similar violations and one NOV with dissim	nilar violations.				
	Total Adjustment Percentage (Subtotals 2. 3	3, & 7) [

	ening Date		Docket No. 2011-0691-WQ-E	PCW
1	tespondent Case ID No.	ABF PACKING, INC. 41596		Policy Revision 2 (September 2002) PCW Revision October 30, 2008
Reg. Ent. Ref				
		Water Quality Heather Brister		
	ation Number			
Management of American	Rule Cite(s)	Tex. Water Code §	26.121(a)(1) and 30 Tex. Admin. Code § 321.	57
Violatio	n Description	water in the state, as do 2011. Specifically, wast	authorized discharge of wastewater into or adja cumented during an investigation conducted or ewater from the retention control structure wa e adjoining property from a stationary reel gui	n July 9, as being
			Base	e Penalty \$10,000
>> Environmen	ntal, Propei	ty and Human Health	n Matrix	
	Release	Harm Major Moderate	Minor	
OR	Actual	X		
	Potential		Percent 25%	
>>Programma				
	Falsification	Major Moderate	Minor Percent 0%	
Matrix Notes	Human hea		peen exposed to significant amounts of pollutarily all tof the violation.	nts as a
			Adjustment	\$7,500
				\$2,500
Violation Event	S			
	Number of '	Violation Events 3	86 Number of violation	davs
				,-
		daily weekly		
Action (Control of the Control of t	mark only one	monthly x		***
	with an x	quarterly semiannual	Violation Base	e Penalty \$7,500
		annual		
		single event		N N N N N N N N N N N N N N N N N N N
	Three mo	•	led from the investigation date (July 9, 2011) t date (October 3, 2011).	to the
		-1- 0.00		\$0
Good Faith Effo	irts to Com	Before NOV	NOV to EDPRP/Settlement Offer	3 0
		Extraordinary		
		Ordinary N/A x	(mark with x)	
man in complete description of the complete description of			dent does not meet the good faith criteria for this violation.	
The contract of the contract o			· ·	
Politics years and a second se			Violation	Subtotal \$7,500
Economic Bene	fit (EB) for	this violation	Statutory Limit	Test
THE CONTRACTOR OF THE CONTRACT	Estimat	ed EB Amount	\$21 Violation Final Pena	alty Total \$8,025
* THE STATE OF THE		This vio	lation Final Assessed Penalty (adjusted fo	or limits) \$8,025

		NO CONTRACTOR OF THE PROPERTY	Dellelle	TTU	rksheet		
- Table	ABF PACKING	, INC.					
Case ID No.							
eg. Ent. Reference No.		i					
Media	Water Quality					Percent Interest	Years of
Violation No.	. 1						Depreciation
크리 마음 보다루는 경류시험이 말.						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description		그러기 하는 그 이 상이 그렇게 하는 것이 하면 하다.					
zeem o coompeton	140 COMMINGS OF \$						
Delayed Costs	ola de Halla de la				kija navatenska		
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	9-Jul-2011	28-Feb-2013	1.64	\$21	n/a	\$21
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
	Estimated	cost to update op	erational procei	lures a	ind conduct emplo	yee training to ensu	re irrigation
Notes for DELAYED costs	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t	ite unauthorized d the anticipated dat	ischarges. Date requestions of compliance.	uired is the
Avoided Costs	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir	ite unauthorized di the anticipated dat ng item (except	ischarges. Date requested of compliance.	uired is the
Avoided Costs	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00	te unauthorized di the anticipated dat ng item (except i \$0	scharges. Date req e of compliance. for one-time avoid \$0	uired is the led costs) \$0
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Avoided Costs Disposal Personnel spection/Reporting/Sampling	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00 0.00	te unauthorized dithe anticipated dating item (except \$0 \$0 \$0	scharges. Date red e of compliance. for one-time avoid \$0 \$0 \$0	led costs) \$0 \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00 0.00 0.00	te unauthorized dithe anticipated dating item (except \$0 \$0 \$0 \$0	scharges. Date red e of compliance. for one-time avoid \$0 \$0 \$0	led costs) \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00 0.00 0.00 0.00	te unauthorized dithe anticipated dating item (except 1 \$0 \$0 \$0 \$0 \$0	scharges. Date req e of compliance. for one-time avoid \$0 \$0 \$0 \$0	steel stee
Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00 0.00 0.00 0.00 0.00	te unauthorized dithe anticipated date of the anticipated date of the state of the	scharges. Date red e of compliance. for one-time avoid \$0 \$0 \$0 \$0 \$0	street s
Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00 0.00 0.00 0.00	te unauthorized dithe anticipated dating item (except 1 \$0 \$0 \$0 \$0 \$0	scharges. Date req e of compliance. for one-time avoid \$0 \$0 \$0 \$0	steel stee
Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	practices a	are done in a man investigation	ner that does n date. Final dat	ot crea e it is t enterir 0.00 0.00 0.00 0.00 0.00	te unauthorized dithe anticipated date of the anticipated date of the state of the	scharges. Date red e of compliance. for one-time avoid \$0 \$0 \$0 \$0 \$0	street s
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Policy Revision 2 (Se	Penalty Calculatio	n Worksheet (PC	W) PCW Revision Oc	tober 30, 2008
TCEQ DATES Assigned PCW	18-Apr-2011 1-Jul-2011 Screening 28-Apr-2011	EPA Due		
	ABF PACKING, INC.			
Reg. Ent. Ref. No. Facility/Site Region		Major/Minor Source	Minor	
CASE INFORMATION				
Enf./Case ID No.	41596	No. of Violations	1	
Docket No.	2011-0691-WQ-E	Order Type	1660	
Media Program(s)		Government/Non-Profit	No	
Multi-Media		Enf. Coordinator		
	<u> </u>		Enforcement Team 1	
Admin. Penalty \$ I	Limit Minimum \$0 Maximum	\$10,000		
	David Harris	His a Cashina		**************************************
	Penalty Calcula			¢E 000
TOTAL BASE PENA	LTY (Sum of violation base pena	ities) a sublimitation and shift	Subtotal 1	\$5,000
ADJUSTMENTS (+	/-) TO SUBTOTAL 1			
	otained by multiplying the Total Base Penalty (Subtotal		tals 2, 3, & 7	\$350
Compliance Hi	Story 7.0%	o Enhancement Subto	tais 2, 3, & /	3 330
Notes	Enhancement for one NOV with same/sin with dissimilar viola			
Culpability	No 0.0%	g Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet th	e culpability criteria.		
Good Faith Eff	ort to Comply Total Adjustments		Subtotal 5	\$500
Economic Bene Approx.		o Enhancement* led at the Total EB \$ Amount	Subtotal 6	\$0
SUM OF SUBTOTAL	LS.1-7 1 - 19 19 19 19. 19. 19. 19. 19. 19. 19. 19. 19. 19.		inal Subtotal	\$4,850
	AS JUSTICE MAY REQUIRE Subtotal by the indicated percentage.	0.0%	Adjustment	\$0
Notes				
		Final Pen	alty Amount	\$4,850
STATUTORY LIMIT	T ADJUSTMENT	Final Asse	ssed Penalty	\$4,850
DEFERRAL	er en	20.0% Reduction	Adjustment	-\$970
	nalty by the indicted percentage. (Enter number only;		११२, १४० 🕊 त्रा क वृत्र वार्या कर्षिक विकास	

Deferral offered for expedited settlement.

\$3,880

Notes

PAYABLE PENALTY

Screening Date 28-Apr-2011

Respondent ABF PACKING, INC.

Case ID No. 41596

Reg. Ent. Reference No. RN106006125

Media [Statute] Water Quality Enf. Coordinator Heather Brister

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Compliance History Worksheet

Compon	ent Numbe		Enter Number Here	Adjust.		
NOV	1	notices of violation ("NOVs") with same or similar violations as those in ent enforcement action (number of NOVs meeting criteria)	1	5%		
		ritten NOVs	1	2%		
	orders n	eed final enforcement orders containing a denial of liability (number of neeting criteria)	U	0%		
Ordei	without	judicated final enforcement orders, agreed final enforcement orders a denial of liability, or default orders of this state or the federal nent, or any final prohibitory emergency orders issued by the sion	_	0%		
Judgme	denial of or conse	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)				
and Con Decre	es Any ad adjudica	judicated final court judgments and default judgments, or non- ited final court judgments or consent decrees without a denial of liability, tate or the federal government		0%		
Convict	ions Any crir	minal convictions of this state or the federal government (number of	0	0%		
Emissio	ons Chronic	excessive emissions events (number of events)	0	0%		
Audit	Texas E 1995 (n	notifying the executive director of an intended audit conducted under the nvironmental, Health, and Safety Audit Privilege Act, 74th Legislature, umber of audits for which notices were submitted)	1 :	0%		
Audit	Disclosu Audit P	res of violations under the Texas Environmental, Health, and Safety rivilege Act, 74th Legislature, 1995 (number of audits for which is were disclosed)		0%		
		Ple	ase Enter Yes or No			
	Environr	mental management systems in place for one year or more	No	0%		
Othe	under a	y on-site compliance assessments conducted by the executive director special assistance program	No	0%		
		tion in a voluntary pollution reduction program	No	0%		
		mpliance with, or offer of a product that meets future state or federal nent environmental requirements	No	0%		
man and a large Watton Fac		Adjustment Per		total 2)		
Repeat viola	No No	Adjustment Per		total 3)		
L			Juliuge (Dubi			
Compliance I	History Perso	n Classification (Subtotal 7)				
Avera	ge Performer	Adjustment Per	centage (Subt	total 7)		
Compliance I	History Sumn	 farý najper na military. Po se sa mone vá najvatkejstí na faktory				
Complia Histor Note	ry Enhand	tement for one NOV with same/similar violations and one NOV with dissim	nilar violations.			
	<u> </u>	Total Adjustment Percentage (S	Subtotals 2	2 & 71		
		rotai Aujustinent Fercentage (S	JUDIULAID E, i	, <u> </u>		

	ening Date		Docket N	lo. 2011-0691-WQ-E		PCW
100		ABF PACKING, INC.				n 2 (September 2002)
	Case ID No.				PCW Revi	ision October 30, 2008
Reg. Ent. Ref						
	a [Statute]	Heather Brister				
	ation Number					
	Rule Cite(s)		ode § 26.121(a)(1) and 30 T	Fex. Admin. Code § 321.5	57	
		Failed to annuant th	a unauthorized discharge o	functionator into an adia	cont to	
Violatio	n Description	water in the state, a 2011. Specifically, w	ne unauthorized discharge o s documented during an inv ater used to wash out the e and was allowed to flow int States Highway 3'	restigation conducted on I enclosed trucks was being to a bar ditch located alon	March 9, diverted	
		,		Base	Penalty	\$10,000
>> Environme	ntal. Proper	ty and Human H	ealth Matrix			
	and the state of t	Ha	ırm			
00	Release		erate Minor			
OR	Actual Potential		X	Percent 25%		
	rocential			2370		
>>Programma	tic Matrix					
	Falsification	Major Mod	erate Minor			
	L	ll		Percent 0%		
	Luman haalth	or the environment h	as been expected to significa	nt amounts of pollutants	which do	
Matrix			as been exposed to significa re of human health or enviro			
Notes	THOSE GROUDG A	processing and processing	the violation.	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		
	L.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,				ll management	
		0.005		Adjustment	\$7,500	
					Г	\$2,500
					<u> </u>	42,500
Violation Event	:S					
	Number of \	lialation Evants		Number of violation d	lave	
	Number of V	Violation Events	2 50	Number of violation d	ays	
	mark only one with an x	daily weekly monthly quarterly	×	Violation Base	Penalty _	\$5,000
		semiannual annual single event			1	
	Two month	•	ended from the investigatio eening date (April 28, 2011)		o the	
Good Faith Effo	rts to Comi	oly 1	0.0% Reduction		Г	\$500
	en de proposition de la company de la compan	Befor	e NOV NOV to EDPRP/Settlemen	t Offer	201-00000000000000000000000000000000000	To the state of th
Page 1 To Control of the		Extraordinary				100
		Ordinary	X			
A CONTRACTOR AND A CALLARY		N/A]	(mark with x)			00000
		Notes The F	Respondent achieved compli	ance on May 3, 2011.		We will interess a separate of the separate of
				Violation S	Subtotal	\$4,500
Economic Bene	fit (EB) for	this violation		Statutory Limit	Test	
	Estimate	ed EB Amount	\$190	Violation Final Penal	ty Total	\$4,850
		Th	is violation Final Assesse	d Penalty (adjusted for	r limits)	\$4,850

	E	conomic	Benefit	Wo	rksheet		
Respondent	ABF PACKING	, INC.	an erae kryg var i bryn j	e es distric	ng salbaraga na mga nagrapa		
Case ID No.		•					
Reg. Ent. Reference No.		5					
	Water Quality						Years of
Violation No.						Percent Interest	Depreciation
Violation ito.		ayyan kenadi ti Ayriya		Priessade)		F.0	
						5.0	15
그 그 전 그 그 그 그 밤맛이 하네	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$18,000	9-Mar-2011	3-May-2011	0.15	\$9	\$181	\$190
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	the Facility's p	parking lot to the r	etention contro Final date i	struct	ture ("RCS"). Date ate of compliance.	e trough to redirect e required is the inv for one-time avoic	estigation date.
Avoided Costs	ARROAL	TEE [1] avoided	COSCS DEIDIE	-			
Disposal	 	1		0.00	\$0 \$0	\$0 \$0	\$0 \$0
Personnel				0.00	\$0	\$0 \$0	\$0
nspection/Reporting/Sampling Supplies/equipment				0.00	\$0 \$0	\$0 \$0	\$0
Financial Assurance [2]		1		0.00	\$0	\$0 \$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0 \$0	\$0
Other (as needed)	<u> </u>	1		0.00	\$0	\$0 \$0	\$0 \$0
Other (as needed)		الــــــالـ		JL V. VV	1 3V	<u> </u>	30
Notes for AVOIDED costs							-
Approx. Cost of Compliance		\$18,000			TOTAL		\$190
Approx. Cost of Compliance	L	\$18,000			TOTAL		\$

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



EQ Compliance History Report

PUBLISHED Compliance History Report for CN603730631, RN106006125, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

Customer, Respondent, CN603730631, ABF PACKING, INC.

Classification: AVERAGE

Rating: 2.67

or Owner/Operator: Regulated Entity:

RN106006125, ABF PACKING

Classification: AVERAGE

Rating: 2.67

Complexity Points:

Repeat Violator: NO

CH Group: Location:

14 - Other

8758 S US HIGHWAY 377 DUBLIN, TX 76446-4375, ERATH COUNTY

TCEQ Region:

REGION 04 - DFW METROPLEX

ID Number(s):

WATER QUALITY NON PERMITTED ID NUMBER

STORMWATER PERMIT TXR05AE10

R04106006125

Compliance History Period: September 01, 2006 to August 31, 2011

Rating Year: 2011

Rating Date: 09/01/2011

Date Compliance History Report Prepared: February 14, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 23, 2007 to October 23, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Heather Brister

Phone: (254) 761-3034

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?

YES

2) Has there been a (known) change in ownership/operator of the site during the compliance period?

NO

3) If YES for #2, who is the current owner/operator?

4) If YES for #2, who was/were the prior

N/A

owner(s)/operator(s)?

5) If YES, when did the change(s) in owner or operator N/A

occur?

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

Date: 10/26/2010 (866568)

Self Report? NO

Citation: TWC Chapter 26 26.121

Description:

Failure to prevent an unauthorized discharge of blood waste from the facility into a ditch that was adjacent to waters of the State of Texas on August 17, 2010.

Classification:

Moderate

04/05/2011 (907472) 2 Date:

> Classification: Self Report? NO Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Failure to obtain authorization to discharge storm water associated with industrial Description:

activities. ABF Packing, Inc. was operating a meat packing business without proper storm water authorization at 8758 S U.S. Highway 377, Dublin, TX.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

H. Voluntary on-site compliance assessment dates:

I. Participation in a voluntary pollution reduction program:

J. Early compliance:

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER 'DOCKET NO. 2011-0691-WQ-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ABF PACKING, INC. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a meat processing plant located at 8758 South United States Highway 377 in Dublin, Erath County, Texas (the "Facility").
- 2. The Respondent has discharged industrial waste into or adjacent to any water in the state under Tex. Water Code ch. 26.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 20, 2011 and on or about September 28, 2011.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Fifteen Thousand Five Hundred Fifty Dollars (\$15,550) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Four Hundred Forty Dollars (\$12,440) of the administrative penalty and Three Thousand One Hundred Ten

Dollars (\$3,110) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that by May 3, 2011, the Respondent removed truck wash water from the bar ditch and constructed control berms throughout the Facility to direct any flow/runoff to the retention control structure ("RCS").
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 321.57, as documented during an investigation conducted on March 9, 2011. Specifically, water used to wash out the enclosed trucks was being diverted from the onsite pond and was allowed to flow into a bar ditch located along United States Highway 377.
- 2. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code § 321.57, as documented during a record review conducted on June 15, 2011. Specifically, on January 27, 2010, investigators documented the over application of and pooling of wastewater. In addition, the runoff of irrigated wastewater discharged into a fresh water pond adjacent to the Facility.
- 3. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of Tex. Water Code § 26.121(a)(1) and 30 Tex. Admin. Code

ABF PACKING, INC. DOCKET NO. 2011-0691-WQ-E Page 3

§ 321.57, as documented during an investigation conducted on July 9, 2011. Specifically, wastewater from the RCS was being discharged onto the adjoining property from a stationary reel gun.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ABF PACKING, INC., Docket No. 2011-0691-WQ-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update operational procedures and conduct employee training to ensure irrigation practices are done in a manner that does not result in the over application of and pooling of wastewater causing unauthorized discharges;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a, in accordance with Ordering Provision No. 2.g below;
 - c. Within 60 days after the effective date of this Agreed Order, complete an evaluation of the effectiveness of the Facility and its operations to ensure that the Facility can maintain compliance with 30 Tex. Admin. Code ch. 321 Subchapter C, Meat Processing, relating to unauthorized discharges;
 - d. Within 90 days after the effective date of this Agreed Order:
 - i. Submit written certification that compliance with 30 Tex. Admin. Code ch. 321 Subchapter C, Meat Processing, relating to unauthorized discharges can be maintained, in accordance with Ordering Provision No. 2.g below; or

ii. If compliance with 30 Tex. Admin. Code ch. 321 Subchapter C, Meat Processing can not be maintained, then submit an administratively complete permit application in accordance with 30 Tex. Admin. Code ch. 305 (relating to Consolidated Permits) to:

Texas Commission on Environmental Quality Water Quality Division Applications Review and Processing Team, MC 148 P.O. Box 13087 Austin, Texas 78711-3087

- e. If a permit application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application with 30 days after the date of such requests or by any other deadline specified in writing;
- f. If a permit application is submitted, within 330 days after the effective date of this Agreed Order, submit written certification of compliance that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained, in accordance with Ordering Provision No. 2.g below; and
- g. The certifications of compliance required by Ordering Provision Nos. 2.b, 2.d.i, and 2.f, shall be notarized by a State of Texas Notary Public and include the following certification language and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087 with a copy to:

Water Section, Manager Dallas/Fort Worth Regional Office Texas Commission on Environmental Quality 2309 Gravel Drive Fort Worth, Texas 76118-6951

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph

ABF PACKING, INC. DOCKET NO. 2011-0691-WQ-E Page 6

- exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under Tex. Bus. Org. Code § 1.002.
- 8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

For the Commission

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Pamor Jave 1	7/11/13
For the Executive Director	Date
I, the undersigned, have read and understand the at agree to the attached Agreed Order on behalf of the do agree to the terms and conditions specified therein accepting payment for the penalty amount, is material. I also understand that failure to comply with the and/or failure to timely pay the penalty amount, may A negative impact on compliance history; Greater scrutiny of any permit applications sultained additional penalties, and/or attorney General additional penalties in any future enforcement. Automatic referral to the Attorney General's and	ttached Agreed Order. I am authorized to entity indicated below my signature, and I n. I further acknowledge that the TCEQ, in lly relying on such representation. Ordering Provisions, if any, in this order result in: bmitted; al's Office for contempt, injunctive relief, o a collection agency; actions;
• TCEQ seeking other relief as authorized by law	
In addition, any falsification of any compliance docum	nents may result in criminal prosecution.
Signature Signature	11-21-12 Date
D L Funderburgh Name (Printed or typed) Authorized Representative of	President

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.